

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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OCT 16 1995

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter)	
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Policies and Rules Concerning)	MM Docket No. 93-48
)	
Children's Television Programming)	
Revisions of Programming Policies)	
for Television Broadcast Stations)	

DOCKET FILE COPY ORIGINAL

To: The Commission

COMMENTS OF CAPITAL CITIES/ABC, INC.

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COMMENTS OF CAPITAL CITIES/ABC, INC.

Capital Cities/ABC, Inc. ("Capital Cities/ABC") submits these comments in response to the Commission's Notice of Proposed Rulemaking in MM Docket No. 93-48, released April 7, 1995 ("Notice").

SUMMARY AND INTRODUCTION

The Commission's rules implementing the Children's Television Act of 1990 ("CTA" or "the Act") went into effect four years ago this month. Those rules, and the Act itself, reflected a carefully crafted balance: requiring every commercial television station to present some programming for the educational and informational needs of children, while at the same time preserving wide broadcaster discretion over program content and avoiding government intrusion into broadcaster decisions about content, format, and scheduling.

This delicate balance was stressed throughout the legislative consideration of the bill and emphasized by the Commission in its adoption of its implementing regulations, policies, and procedures.

The instant Notice of Proposed Rulemaking suggests a number of changes to the rules and processes. Some involve unobjectionable, or even welcome, clarification and refinement. Others, however, would fundamentally disrupt the balance struck in the Children's Television Act by injecting the Commission into the programming decisions of broadcasters to a degree that is inconsistent with the legislative intent, inappropriate, unnecessary, and constitutionally suspect.

We submit that in the four years since their implementation, the Act and the Commission's rules have functioned well and as intended. As documented by the extensive surveys conducted by the National Association of Broadcasters, television stations have responded to the rules by presenting ever-increasing hours of

educational and informational programming for children. With increased demand from stations, producers and distributors have committed greater and greater resources to the development, production, and marketing of these programs. And, in turn, the increasing availability and quality of these programs from distributors have led to their increasing availability to the public, not only on commercial television stations but also on public television, numerous cable programming channels, videocassettes, and CD-ROMS.

The increase documented by the NAB has been gradual and incremental. This is not at all surprising in an industry in which the development, production, marketing, and scheduling of programming takes place over years and television seasons, rather than instantaneously. But, as the NAB survey demonstrates, the increase has been significant, and has been accomplished without undue governmental intrusion into broadcasters' programming discretion in the form of numerical standards or scheduling requirements.

In its Notice, the Commission embraces three basic propositions: (1) "judgments of the quality of a licensee's programming, educational or otherwise, are best made by the audience, not by the federal government,"¹ (2) the agency's "rules and process should be as clear, simple, and fair as possible,"² and (3) "broadcasters should be guided by market forces, to the greatest

¹ Notice at ¶4.

² Id. at ¶6.

extent possible, in determining [how to] meet their programming obligation.”³ We wholeheartedly agree with all three propositions, and believe they should continue to guide the Commission’s regulation in this area, along with one additional proposition: the Commission should avoid any undue intrusion into broadcasters’ decisions concerning program content, format, and scheduling.

The Commission proposes various steps for clarifying its existing policies, strengthening broadcasters’ reporting and public file obligations, and improving public access to information about a broadcaster’s claimed service. We support many of these proposals. For example, we agree with the Commission that clarification of standards and reporting requirements are likely to have a salutary effect. We agree that broadcasters should be encouraged to assist parents by providing information about their qualifying children’s programs to listings services, although we believe that implementation of this and other activities designed to increase the dissemination of information about these programs should be left to the discretion of broadcasters. And we have no objection to a period of Commission monitoring of broadcaster performance to assess further developments in the marketplace, including annual submission of programming reports by stations to the agency.

However, we urge the Commission not to exclude or discount educational short-form segments (that is, segments shorter than a half-hour), public service announcements, and children’s specials in its contemplated revision of its standard for “core” qualifying

³ Id. at ¶8.

children's programming. We also believe that the Commission should not attempt to mandate special on-air icons or announcements for educational programs, since they are likely to be counter-productive in their effect on the child audience.

Finally, we oppose the Notice's proposal to adopt quantitative programming standards, in the form of either mandatory requirements or processing guidelines. Quantitative standards have been eschewed by Congress and, repeatedly, by the Commission, and with good reason: they are unnecessary, they may well be counter-productive in terms of service to children and the community, they encroach substantially on broadcaster programming decisions, and they raise significant constitutional issues.

I. The Record Demonstrates That Children's Programming Serving the Educational and Informational Needs of Children Has Increased Substantially and Continues to Increase.

In its Notice, the Commission tentatively concludes that the increase in the amount of educational children's programming since implementation of the Act has been "quite modest at best" and "disappoint[ing]." Notice at ¶¶45, 19. We believe that this characterization is unduly negative. Rather than disappointing, we believe that the performance of the industry in the four years since implementation of the Act has been highly encouraging, as ever-increasing amounts of educational and informational programming have been developed, produced, and aired by broadcasters across the country.

We will not address here at length the findings of the survey

now being submitted to the Commission by the National Association of Broadcasters, leaving that primarily to the NAB itself.

However, we do wish to underscore the kind findings of that massive survey's key findings: (1) commercial stations across the country on average aired more than four hours of regularly scheduled educational and informational children's programming per week in the fall of 1994, and (2) this amount was up nearly 10 percent from the fall of 1993 and more than double that presented in the fall of 1990, before implementation of the Act.⁴

These findings are all the more compelling when viewed in terms of the overall availability of programming in a community or market, which both Congress and the Commission have stressed should be a key consideration in assessing broadcasters' performance under the Act.

As of September 1994, 97 percent of American television households received the signals of at least six television stations, and 74 percent received 11 stations or more.⁵ If, as the NAB survey indicates, stations averaged 244 minutes of educational children's programming apiece each week in the fall of 1994, six stations collectively would average 1464 minutes (more than 24 hours) weekly;

⁴ The ABC Television Network currently provides two hours of educational and informational programming specifically designed for children each Saturday to its more than 220 affiliated stations. Those programs are "Free Willy," "Fudge," "ABC Weekend Special," and "The New Adventures of Madeline." "Madeline" will be replaced at the end of October in the weekly ABC Saturday schedule by "Winnie the Pooh and Friends," a program specifically cited in the Senate Report as a leading example of programming serving children's educational and informational needs. S. Rep. No. 227, 101st Cong., 1st Sess. 23 (1989) ("Senate Report").

⁵ Nielsen Media Research, 1994 Television Audience at 13.

11 stations together would average almost 45 hours -- more than six hours a day.

Furthermore, these NAB numbers are likely to significantly underestimate the amount of educational television programming being made available to children, in several respects.

First, they do not take into account several forms of programming through which commercial broadcasters also serve the interests of their child audience: periodic or special programming, short-form segments of less than 30 minutes, public service announcements, and programming designed for the general family that also serves children's educational and informational needs. As we discuss more fully below, each of these forms of programming has been cited repeatedly in the legislative history of the Act and by the Commission as providing valuable service to children that complements stations' regularly scheduled long-form programming and offers its own distinct advantages and appeal.⁶

Second, the survey's findings do not include the substantial contribution made by public television stations. An analysis by the Capital Cities/ABC research department of the TV Guide listings of public stations in the 32 Nielsen metered markets during the week of September 12, 1994, found that they presented an average of 44.6 hours of educational children's programming per station for the week

⁶ The NAB survey found that commercial stations present an average of 13.5 minutes per week -- almost an hour each month -- of qualifying children's specials. This figure was up 12.5 percent from 1993 and 129 percent from 1990. The survey did not attempt to calculate the amount of qualifying short-form programming or public service announcements presented by the stations.

-- more than 6 hours a day for each station.⁷

Third, the NAB study did not consider the substantial amount of educational programming now carried by cable programmers. More than 96 percent of American television households are now passed by cable, and more than 65 percent of television households currently subscribe.⁸ Numerous cable channels -- including Nickelodeon, the Disney Channel, the Family Channel, the Learning Channel, Bravo, Lifetime, TNT, and even Showtime, HBO, and the Cartoon Network -- now regularly provide educational programs specifically designed for child audiences.⁹

Of course, neither public television programs, nor cable offerings can excuse local broadcasters from fulfilling their obligation under the Act to provide some educational programming specifically designed for children. However, they are certainly relevant in assessing the quantity and variety of educational programming currently available to children in our nation's communities. As the Commission observed in 1984, in rejecting a proposal that it establish children's programming quotas for commercial broadcasters:

⁷ This included such acclaimed and popular programs as "Sesame Street," "Barney & Friends," "Shining Time Station," "Where in the World is Carmen Sandiego," "Lamb Chop," "Mister Rogers," "Ghostwriter," "Storytime," "Reading Rainbow," "Square One TV," "Bill Nye the Science Guy," "Magic School Bus," and "Kidsongs."

⁸ "By the Numbers," Broadcasting & Cable, October 9, 1995, at 84.

⁹ See, e.g., "New Fare Ahead for TV's Youngest Viewers," New York Times, October 3, 1995, at C13.

"We do not expect the public broadcasting system to bear the sole responsibility for meeting the needs of the child television audience...But we do not believe it appropriate to exclude its output from consideration as a significant factor in measuring the extent to which the needs of this audience are being served."

Children's Television Programming, 96 F.C.C.2d 634, 55 R.R.2d 199 (1984) at ¶29. The Commission also took account of the children's programming then just beginning to be made available by the growing cable industry, noting that cable's increasing contribution "cannot be avoided in any assessment of the accessibility of programming to the child audience." Id. at ¶30. Affirming the Commission's decision not to impose quantitative standards, the D.C. Circuit noted that the agency had acted "appropriately" in declining to "blind itself to the contribution of noncommercial television" and in considering the children's programming contributions of cable's "broad and increasing presence." Action for Children's Television, 756 F.2d 899, 901 (D.C. Cir. 1985).

In this regard, we should mention also two other expanding sources of educational programming specifically designed for children, both of which were just emerging in 1984: videocassettes for sale or rental, and computer software, including floppy disks and CD-ROM's. See Notice, Separate Statement of Commissioner Quello at 2. The percentage of American homes with VCR's is now over 85 percent;¹⁰ the percentage with home computers is more than 25

¹⁰ Nielsen NAD Book, August 1995. Of course, VCR's also increase the availability of educational children's programming in the home by enabling parents to tape favorite programs, time-shift them to more convenient times and dates, and archive them for repeated viewing by their children.

percent and increasing rapidly.¹¹ These growing sources of popular and educational material for children, available for use by parents and children at any time of day, should not be discounted. Indeed, a comprehensive analysis of children's materials available for home use would also include books, magazines, and educational toys and games, all of which continue to enjoy robust sales across the country.

The surge in children's programming and other educational products has been spurred largely by demographics. The so-called "New Baby Boom" has added more than 4 million infants a year to the U.S. population -- and viewing audience -- since 1989, levels unmatched since 1964. See "Baby, We Mean Business; Marketers Tap Growth Market," USA Today, May 8, 1995, at 1B. According to Nielsen population estimates, there were 38.6 million children ages 2-11 in the U.S. as of September 1995, up 17 percent since 1985. The emergence of this "growth market" augurs continued increases in the production and distribution of educational materials for children, through a wide variety of outlets including commercial television.

In sum, the commercial television performance documented by the NAB survey, together with programming and materials from other sources not included in that study, demonstrate that the marketplace now makes available to parents and children abundant and growing opportunities for educational children's viewing.

¹¹ Mediamark Research Inc., Spring 1995 survey.

II. There Are a Number of Steps the Commission Could Take to Enhance Public Access to Broadcasters' Programming Reports Without Unduly Burdening Broadcasters. However, On-Air Announcements Are Unnecessary and Undesirable.

The Notice inquires about possible ways in which "to facilitate public access to and use of" the information contained in stations' periodic reports on children programming, which are already required to be maintained in the public file. Notice at ¶25. While we support the goal of public access to this information, we submit that the need for further regulation in this area is not at all clear. We are not aware that there have been significant problems with public access to these reports; indeed, many groups and individuals have monitored station performance in this area and have analyzed stations' programming by reference to their programming reports. To the extent that problems have arisen or may arise, we submit that the Commission's existing rules requiring that public files be readily available to the public and maintained in an orderly and timely fashion should be sufficient to correct the situation.

However, we are not opposed to special rules, similar to those for the political files, requiring stations to physically segregate their children's programming reports in a clearly designated file, Notice at ¶26; Capital Cities/ABC's owned stations already do this. We also have no objection to requiring the file to include the name and telephone number of a station employee to whom questions and

comments regarding the station's compliance with the CTA should be directed. Id. at ¶25.

As for the reports themselves, the Notice proposes that licensees be specifically required to include in their reports a brief explanation of how particular programs meet the definition of educational and informational programming. Id. The Capital Cities/ABC stations currently provide this information for all listed programs, as does the ABC Television Network in the reports provided to its affiliates, and we have no objection to such a requirement. The requirement should be worded, however, so as to grant licensees broad discretion in the manner and detail of the required program descriptions. For example, for a qualifying regularly scheduled series, licensees should not be required to describe each weekly or daily episode; a general description of the series' format, subject matter, and other overall qualities should be sufficient to explain its inclusion in the station's listing of educational and informational children's programs.

We also support the Notice's proposal to require stations to generate and to place on file their children's programming reports on a quarterly basis. Id. at ¶26. Because they already need to maintain and update program records on a regular basis, this requirement should not impose a significantly increased burden on licensees. Indeed, the Capital Cities/ABC stations already compile and file their reports quarterly.

The Notice also proposes that broadcasters be required to provide periodic on-air announcements of the existence and location

of their children's programming reports. We believe that an on-air announcement requirement is both undesirable and unnecessary. It is undesirable because -- whether audio, visual, or both -- such an announcement would inevitably take up time within children's programs that would be better devoted to content. It is unnecessary because viewers who wish to inspect the file, or to offer questions or comments about a licensee's children's programming, should have little difficulty contacting the appropriate personnel or obtaining information about the file's location and visiting hours. This would be particularly true with the appointment by each licensee of a contact person for CTA inquiries and complaints, as discussed above. A rule requiring on-air announcements would also involve determinations regarding the adequacy of particular announcements' content, format, placement, and frequency, all of which would intrude the Commission significantly and unnecessarily into broadcaster discretion over on-air content.

III. The Commission Should Not Mandate On-Air Announcements or Icons Identifying Educational Children's Programming. Broadcasters Should Be Encouraged to Provide Information to Listing Services, But Implementation Should Be Left to Broadcaster Discretion.

The Notice expresses concern that parents may not currently receive sufficient information about program offerings to make enlightened choices regarding the programming that their children watch. Notice at ¶¶ 21-24. It therefore proposes that broadcasters should provide more information about their educational and informational children's programs in the materials they provide to

listings services and in on-air announcements or icons. Id.

As indicated by our significant investment of on-air time, advertising dollars, and various publicity efforts to promote our programs, we believe it is strongly in our interest to have the public receive as much information about our programming as possible. We also agree that parents seeking out educational programming for their children could benefit from having more information about those programs made available to them in published program guides.

We therefore support the Notice's suggestion that broadcasters should provide more information about educational children's programs to listings services, and that it would be desirable for those services to disseminate the information to the public.

Of course, the Commission must bear in mind that the ultimate decision whether to publish any information provided by broadcasters, and to what extent and in what form, lies with the listings services and their client publishers; neither broadcasters, nor the Commission can mandate that these services, magazines, and newspapers publish any particular program information. Indeed, ABC and other broadcasters already provide more information to listings services than many of the services or their clients choose to publish -- including the identification of stereo and closed captioned programs, and descriptive information about prime time episodes and specials. Such information is often excluded or reduced by newspapers and other services increasingly strapped for space for television listings due to the proliferation

of cable channels.¹²

We believe that the Commission should encourage broadcasters to supply more information about their educational children's programs to listings services and other press outlets, and to work with those services and publishers toward greater dissemination of that information to the public. We do not believe, however, that this should take the form of a mandatory rule. Any rule would raise difficult issues of form, content, application and enforcement. Programming for different age groups, for example, may benefit from different sorts of identifying information; different listing services and publishers may request or require that information be presented in different ways. Broadcasters need broad latitude to work with services and publishers to develop means and formats for providing this additional information to the public.¹³ And they should be left free to develop other ways of circulating the information -- e.g., through the Internet, recorded phone services, teacher guides, and other creative approaches.

The Notice also proposes that broadcasters be required to present an on-air announcement or icon identifying each educational

¹² ABC and other broadcasters also provide a great deal of information about their regular and special programming, including children's programming, to media reporters, critics, advertisers, and others; only a small portion of this information actually makes its way to the general public.

¹³ In this regard, we wish to mention the efforts voluntarily undertaken last fall by ABC, CBS, NBC and Fox to provide information to TV Guide and other major listings services about programs carrying parental advisories due to violent content or other factors.

and informational children's program at the time of its broadcast.

We believe that such a requirement would be unwise. From the parent's perspective, advance information concerning children's programming in a listing guide is more important and more useful than an announcement or icon at the time of broadcast. If the parent is actually viewing the program, he or she can sample its content and its tone and make a far better informed judgment about its desirability and suitability for his or her child.

At the same time, an on-air announcement or icon labeling a program as "Educational" could well be counterproductive in its impact on young viewers. Significant numbers of children might be put off by such an identifying mark, concluding that a program so designated must be too drily academic or too much "like school" to be enjoyable. This kind of reaction could well diminish the viewership of these programs, frustrating, rather than advancing, the purpose of the Act.

IV. In Clarifying its Standard for Qualifying Programming Specifically Designed for Children, the Commission Should Not Exclude or Discount Short-Form or Special Programs.

The Notice offers several proposals for clarifying, and in some cases restricting, its definition of programming specifically designed for children and qualifying for credit under the Act. We

address each of these proposals in turn.¹⁴

1. "Education as a significant purpose."

Capital Cities/ABC strongly supports the Notice's conclusion that the Commission should not adopt a test which would limit qualifying programming to programs for which education is the "primary" or "explicit" objective. Notice at ¶37. As we discussed at length in our Comments to the Notice of Inquiry in this proceeding,¹⁵ such a standard would be extremely difficult to apply in a consistent and meaningful fashion. It would also set up a false dichotomy between education and entertainment that could operate to discourage the development and presentation of exciting, creative, and appealing programs that not only inform and enlighten children but also entertain. Like good pre-school and grade school teachers, the best educational programming for children is also

¹⁴ The Notice correctly recognizes that licensees may receive credit under the CTA not only for programming specifically designed for children 16 and younger, but also for family and general audience programs "that contain information or illustrate messages helpful to children." Notice at ¶27. We have no objection to a requirement that licensees' programming reports clearly distinguish between, and separate, general audience programs that serve children and programs specifically designed for child viewers. Id. at ¶35. Reports prepared by the Capital Cities/ABC owned stations already make this clear distinction, as do listings prepared by the ABC Television Network and provided to the network's affiliates for their use. We do not believe this should present a significant hardship to licensees who do not currently do so.

¹⁵ See Comments of Capital Cities/ABC, Inc., MM Docket No. 94-48, Notice of Inquiry, FCC 93-123, 8 FCC Rcd 1841 (1993) ("NOI") at 8-12.

highly entertaining; it is in this way that the programming attracts, engages, and retains child viewers. We commend the Commission for acknowledging the point made by many commentators that "educational programming must be entertaining to be successful," Notice at ¶37, and for emphasizing "our desire to encourage producers to make educational programming that is attractive to children." Id. at ¶37.

Rather than making education the "primary" purpose of qualifying children's programming, the Notice proposes that the programming have education as a "significant purpose." Id. We believe that this requirement has been inherent in the standard from the beginning, and Capital Cities/ABC consistently has applied this interpretation of the Act in preparing children's programming reports for our affiliates and our stations. If the Commission concludes that the addition of this phrasing would clarify the standard, we have no objection to it.

However, if it adopts this phrasing, the Commission should reaffirm that "education" is to be broadly construed, in keeping with the intent of Congress. That is, the Commission should make clear -- as it has in the past -- that a program need not be of an academic, pedagogical or instructional character to qualify as educational under the Act, but can also qualify if it promotes the pro-social or emotional development of children. The Commission has previously stressed that "educational and informational" programming under the Act should be interpreted to include not only "instructional" programming, dealing with classroom-type subjects,

but also "programming that furthers the positive development of the child in any respect, including the child's cognitive/intellectual or emotional/social needs." Children's Television Programming, 6 FCC Rcd 2111, 68 R.R.2d 1615 at ¶21 (1991). This reflects the clear intent of the bill's sponsors. As Senator Inouye stated on the Senate floor:

"Educational and informational needs encompass not only intellectual development, but also the child's emotional and social development. Pro-social programming which assists children to discover more about themselves, their families, and the world would qualify."¹⁶

A number of children's shows with strong pro-social messages, but which could not be considered "instructional" in an academic sense, were specifically cited in the Senate report as programs that served children's educational and informational needs; those included "Winnie the Pooh and Friends," "Fat Albert and the Cosby Kids," and "The Smurfs."¹⁷ The Commission should reaffirm this expansive interpretation of the standard, to make clear that it is not unduly constraining the development and presentation of quality children's programs that aid the personal and social growth of young children and teenagers.

2. Identifying Educational Objective and Target Child Audience.

¹⁶ 136 Cong. Rec. at S10122 (July 19, 1990).

¹⁷ S. Rep. No. 227, 101st Cong., 1st Sess. 23 (1989) ("Senate Report").

As we have indicated above, we have no objection to a rule which would require licensees to include a brief description of the educational elements of a program, so long as the requirement grants sufficient discretion as to format and level of detail. For example, in the case of a regularly scheduled series, it should be sufficient to offer a description of the ways in which the series overall series serves children's educational needs, rather than offering an episode-by-episode analysis.

We also do not object to a requirement that licensees identify in their programming reports the target age group or groups for which a particular program is intended. Again, however, it is vital that the Commission, if it adopts such a requirement, provide licensees with broad latitude in determining and identifying age groups. Many very effective educational children's programs are intended for, and appeal to, a broad age range. Among these are programs which are constructed to operate at different developmental levels, so that, for example, siblings separated by some years can watch the same programming, enjoy it for different reasons, and learn from it in different ways. The Commission should emphasize that target age groups indicated in program reports may be broadly described.

Similarly, the Commission should reaffirm, as it proposes to do, that licensees are under no obligation to provide programming for any particular narrowly defined age groups. As the Commission recognizes, such a requirement would unduly interfere with

broadcaster flexibility. Notice at ¶39.¹⁸ It would also underestimate the degree to which particular programs may be attractive and useful for children of various ages. If age groups are forced to be defined and served too narrowly, socially valuable co-sibling viewing could be reduced, and the audience and advertiser support necessary to sustain quality children's programming could suffer.

3. Hours of Broadcast.

We agree with the Notice's observation that qualifying children's programs should be aired during hours when children are likely to be in the viewing audience. We also agree that programs aired between 6 a.m. and 11 p.m. should be presumed to be available to children. However, the Commission should permit broadcasters who air children's programming earlier than 6 a.m. to demonstrate that their programs attract significant child audiences and therefore serve a particular local need. An arbitrary cut-off of 6 a.m. fails to take into account the special needs of certain communities (e.g., early-rising farm populations).

Nor should the Commission place limits or otherwise disadvantage the airing of children's programs between 6 and 7 a.m. Notice at ¶40. To allow full credit only for children's programs aired after 7 a.m. would unduly limit broadcaster programming flexibility in morning hours which are also prime viewing periods for adult news and information programming, programming which is of itself of great service to major segments of the community.

¹⁸ See also Report and Order at 2114.

Moreover, encouraging broadcasters to air morning children's programs within a more narrowly constrained time period would reduce their capacity to "counter-program," increasing the head-to-head competition among children's shows and diminishing, rather than enhancing, their commercial viability and their availability at different times across the broadcast schedule.

4. Regularly Scheduled Programming.

The Notice proposes to limit qualifying children's programming to "regularly scheduled" programs. At the same time, however, the Notice observes that the Commission "do[es] not wish to create a disincentive to air children's educational specials, which may not be regularly scheduled or which may air at relatively infrequent intervals." Notice at ¶41. We submit that any limitation on the credit available for children's specials under the Act will inevitably discourage their production and presentation and deprive the child audience of valuable programming.

Children's specials can indeed serve very important educational, informational, and pro-social purposes. The periodic "ABC Afterschool Specials," for example, have won numerous awards for quality programming; recent subjects have included prejudice, violence, family illness, and the relationship between step-parents and step-children. Other special programs for children presented by the ABC Television Network this year have included "Wild Things: An Earth Day Special," a report on endangered species; "Wide World of Sports for Kids: A Day at the Races," a look at the evolution of

horses and horse-racing; "Money Made Easy: The ABC Kids' Guide to Dollars and Sense," a two-part series on the basics of money, personal finance, and banking; and "Crash the Curiousaurus," an introduction to the famed dinosaur collection of the American Museum of Natural History. ABC News has also presented special programs for children, including two special broadcasts, moderated by Peter Jennings, in which President Clinton answered questions from children of a wide range of backgrounds and age groups.

None of these programs was "regularly scheduled" in the sense of recurring at a predictable interval. All clearly presented valuable educational and informational programming directly intended for young children.

The Notice suggests that, notwithstanding their educational content, children's specials and periodic programs should be excluded or discounted as contributions toward broadcasters' programming obligation because children and parents may not "be able to easily anticipate when [they] will be aired." Notice at ¶41. This concern is unfounded. It is clearly in broadcasters' interest to promote and to publicize children's specials as effectively as possible in order to maximize their viewership. Indeed, program guides and listings services often are willing to accord children's specials more space and fuller descriptions than they provide for on-going children's series. All of the ABC children's specials were publicized and scheduled well in advance of airing.

Rather than mandating that qualifying programs be aired on a